REMARKS

In a FINAL Office Action dated 26 March 2003, the Examiner rejected claims 1-12 under 35 U.S.C. §102(b) as being anticipated by Published EPO patent application WO 99/41853 (Kim Patent), noting with respect thereto:

> Regarding claims 1 and 7, Kim discloses a CDMA communication system, which provides a dedicated control channel capable of efficiently communicating control messages between a base station and mobile station. Kim further discloses a means for storing the data generated by the terminal and further segmenting the data in the core unit to include payload of pre-determined size. Kim further discloses a method for selecting a dedicated control channel and a packet traffic channel/supplemental channel. Kim further discloses a method of packaging the core unit into a RLP frame. See Fig. 5, abstract, summary of invention, page 17, lines 10-16, page 21, lines 11-15.
>
> In response to applicant's arguments that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies i.e., to use the dedicated control channel for transmitting user data even [sic] there exists a presently active radio link in use by the mobile station are not recited in the rejected claim(s).

Applicant has reviewed the cited Kim Patent and the Examiner's clearly stated grounds for rejection and has further amended the independent claims 1, 7 to traverse the Examiner's rejection of claims 1-12. In particular, Applicant has inserted the missing language noted by the Examiner into the independent claims.

The cited Kim Patent teaches a CDMA communication system that implements a dedicated fundamental channel for transmitting voice data, a dedicated supplemental channel for transmitting packet data and a dedicated control channel for transmitting control messages (page 11, lines 2-12). The Kim communication system provides a dedicated control channel that extends from the base station to the mobile station for transporting control messages therebetween. The control messages can be inserted into a frame of one of two predetermined lengths (page 14, lines 14-21). In addition, the dedicated traffic channel performs a number of functions, one of which includes the delivering of packet data-related control messages (page 15, lines 13-17). However, when the dedicated traffic channel is not established and packet data cannot be exchanged between the base station and the mobile station (page 17, lines

10-16), the Kim communication system enables a user packet to be transmitted as a single brief packet (page 21, lines 11-15) over the dedicated control channel of a presently active radio link being used by **another** mobile station (page 12, lines 8-18). There is no teaching in the cited Kim Patent that enables the Kim communication system to use the dedicated control channel for transmitting user data when there exists a presently active radio link in use by the mobile station and the Kim communication system can only use another subscriber's radio link to forward a brief burst of data over the dedicated control channel of that radio link.

In contrast, Applicant's radio link protocol framing system receives data from the subscriber's terminal equipment, such as a personal computer PC, and stores this data in a buffer for transmission over the presently active radio link, that implements a dedicated fundamental channel for transmitting voice data, a dedicated supplemental channel for transmitting packet data and a dedicated control channel for transmitting control messages, to the base station. The data transmission rate required to support this link is a function of the volume of data generated by the personal computer PC and/or required to be downloaded to the personal computer PC. The Radio Link Protocol framing system packages the data into Core Units via Core Unit Protocol Handler for transmission over the Dedicated Control Channel and/or the Supplementary Channel (page 9, lines 4-11) **of the presently active radio link being used by the subscriber's terminal equipment**, depending on the volume of the user data traffic that is available for transmission. This structure is not disclosed or suggested by the cited Kim Patent. Applicant has amended the independent claims 1, 7 to recite this structure in these independent claims: both the presence of an active radio link from the subscriber's mobile wireless station set to the communication system and the use of the dedicated control channel of the subscriber's presently active radio link to transmit data. Applicant believes that these amendments render claims 1, 7 allowable under 35 U.S.C. §102(b) over the cited Kim Patent. Applicant also believes that claims 2-6, 8-12 are allowable under 35 U.S.C. §102(b) over the cited Kim Patent because they depend on allowable base claims.

Applicant requests a Notice of Allowance in this application in light of the

amendments and arguments set forth herein. The undersigned attorney requests Examiner Sharma to telephone if a conversation could expedite the prosecution of this application. Applicant authorizes the Commissioner to charge any additionally required payment of fees to deposit account #50-1848.

Respectfully submitted,
Patton Boggs, LLP

By: 

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Tel: 303-379-1113
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VERSION OF CLAIMS WITH MARKINGS TO SHOW CHANGES:

1. (Twice Amended) A radio link protocol framing system located in a subscriber's mobile wireless station set for providing said subscriber's mobile wireless station set with high speed data transmission capability by using the dedicated control channel [and the Supplementary channel] of the radio link that interconnects said subscriber's mobile wireless station set with a digital cellular mobile telecommunication network, comprising:

means, responsive to a subscriber at said subscriber's mobile wireless station set requesting a data communication service, for storing data generated by terminal equipment at said subscriber's mobile wireless station set;

means for segmenting said data in at least one core unit, each core unit exclusively comprising a payload of predetermined size;

means, responsive to the existence of a presently active radio link in use by said subscriber's mobile wireless station set, for selecting said dedicated control channel [and said Supplementary channel] of said presently active radio link to transmit said data to said digital cellular mobile telecommunication network; and

means for packaging said at least one core unit into a radio link protocol to transmit said data to said digital cellular mobile telecommunication network via said dedicated control channel [and said Supplementary channel] of said presently active radio link.

7. (Twice Amended) A method for providing a subscriber's mobile wireless station set with high speed data transmission capability by using the dedicated control channel [and the Supplementary channel] of a radio link that interconnects said subscriber's mobile wireless station set with a digital cellular mobile telecommunication network, comprising the steps of:

storing in a memory, in response to a subscriber at said subscriber's mobile wireless station set requesting a data communication service, data generated by terminal equipment at said subscriber's mobile wireless station set;

segmenting said data in at least one core unit, each core unit exclusively comprising a payload of predetermined size;

selecting, in response to the existence of a presently active radio link in use by said subscriber's mobile wireless station set, said dedicated control channel [and said Supplementary channel] of said presently active radio link to transmit said data to said digital cellular mobile telecommunication network; and

packaging said at least one core unit into a radio link protocol to transmit said data to said digital cellular mobile telecommunication network via said dedicated control channel [and said Supplementary channel] of said presently active radio link.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

13436,212

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,453	09/15/2000	Syam Prasad Aribindi	Aribindi 1-2-3	3610

24283 7590 03/26/2003

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

EXAMINER	
SHARMA, SUJATHA R	
ART UNIT	**PAPER NUMBER**
2682	7

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Final O/A
Due Date: 5/26/03
Statutory Deadline: 9/26/03
Date Docketed: 4/2/03
Docketed by: lo
Sec: SC
Atty: MG

PTO-90C (Rev. 07-01)

Office Action Summary	Application No. 09/663,453	Applicant(s) ARIBINDI ET AL.
	Examiner Sujatha Sharma	Art Unit 2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5)☐ Claim(s) ____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) ____ is/are objected to.

8)☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on ____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on ____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. ____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .
4)☐ Interview Summary (PTO-413) Paper No(s). ____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim [WO 99/41853].

Regarding claims 1 and 7, Kim discloses a CDMA communication system, which provides a dedicated control channel capable of efficiently communicating control messages between a base station and mobile station. Kim further discloses a means for storing the data generated by the terminal and further segmenting the data in the core unit to include payload of pre-determined size. Kim further discloses a method of selecting a dedicated control channel and a packet traffic channel/supplemental channel. Kim further discloses a method of packaging the core unit into a RLP frame. See Fig.5, abstract, summary of invention, page 17, lines 10-16, page 21, lines 11-15.

Regarding claims 2 and 8, Kim further discloses a method of selecting the core unit and prepending a header to the core unit, the header comprising of sequence number and payload length. See figures 2A-2C, page 21, line 19 – page 23, line 2.

Regarding claims 3,5,9, and 11, Kim further discloses a method where a filed in the header indicates whether the contents are for the dedicated control channel or for the supplementary channel of the radio link.

Regarding claims 4,10, Kim further discloses a method of concatenating a plurality of core units and prepending the header to the core unit. See figures 2A-2C, summary of invention and page 21, line 19 – page 23, line 2 and page 1, lines 12-19.

Regarding claims 6 and 12, Kim further discloses a method of appending the header and the core unit to the concatenated core units. See figures 2A-2C, summary of invention and page 21, line 19 – page 23, line 2 and page 1, lines 12-19.

Response to Arguments

3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies i.e., to use the dedicated control channel for transmitting user data even there exists a presently active radio link in use by the mobile station are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
In addition the applicant is drawn to the reference Kim [WO 99/41853] where it is disclosed that in exceptional cases the dedicated control channel maybe used together with the voice traffic channel for high quality service. See page 12, lines 8-18.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sujatha Sharma whose telephone number is 703-305-5298. The examiner can normally be reached on Mon-Fri 7.30am - 4.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone numbers for the organization where this application or proceeding is assigned and for all official communications is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Sujatha Sharma
March 12, 2003

VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
3/21/03

Country Application

Wednesday, April 02, 2003 Page: 2

List Of Actions

Action(s) Due	Due Date		Action Taken
1st draft to inventor	25-Oct-1999	Due Date	28-Feb-2000
File application	10-Dec-1999	Due Date	15-Sep-2000
Application mailed to PTO	15-Sep-2000	Reminder	15-Sep-2000
Application PC rec'd	15-Oct-2000	Reminder	29-Sep-2000
File assignment	15-Dec-2000	Reminder	20-Dec-2001
ASSIGN MAILED TO PTO	20-Dec-2000	Reminder	20-Dec-2000
REEL: 011432/FRAME: 0353	22-Dec-2000	Reminder	22-Dec-2000
FILE MISSING PARTS	31-Dec-2000	Due Date	20-Dec-2000
Filing Receipt Received?	15-Jan-2001	Reminder	13-Nov-2000
Assignment PC rec'd	20-Jan-2001	Reminder	15-Jan-2001
Miss Part/file rec cor PC recd	20-Jan-2001	Reminder	08-Jan-2001
FILE MISSING PARTS 1st ext	31-Jan-2001	Due Date	20-Dec-2000
FILE MISSING PARTS 2d ext	28-Feb-2001	Due Date	20-Dec-2000
Assignment Recordal rec'd?	20-Mar-2001	Reminder	03-Apr-2001
File receipt correction rec'd	20-Mar-2001	Reminder	09-Apr-2001
FILE MISSING PARTS 3d ext	31-Mar-2001	Due Date	20-Dec-2000
Lucent/Send FF docs to client	22-Apr-2001	Due Date	03-Apr-2001
FILE MISSING PARTS-FINAL DLINE	30-Apr-2001	Final	20-Dec-2000
NO IDS NEEDED AT PRESENT	27-Aug-2001	Due Date	27-Aug-2001
IDS POSTCARD?	15-Apr-2002	Reminder	27-Mar-2002
EP Search Rcvd IDS to USPTO	14-May-2002	Due Date	13-Mar-2002
RESPONSE TO OFFICE ACTION 3M	02-Mar-2003	Due Date	17-Jan-2003
FINAL OA RESPONSE DUE 2ND MO	26-May-2003	Due Date	
FINAL OA RESPONSE DUE 3RD MO	26-Jun-2003	Due Date	
FINAL OA RESPONSE DUE 1ST EXT	26-Jul-2003	Due Date	
FINAL OA RESPONSE DUE 2ND EXT	26-Aug-2003	Due Date	
FINAL OA/APPEAL or RCE 3RD EXT	26-Sep-2003	Final	

Country Application

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Case Number: 13436.212
SubCase: Country: US
FB Reference #: 13436.212
Client: Lucent Technologies, Inc.
United States of America
Case Type: PRI
Application Status: Pending
Application Number: 09/663453
Filing Date: 15-Sep-2000
Publication Number:
Publication Date:
Patent Number:
Issue Date:
Parent/PCT Number:
Parent/PCT Date :
Parent Issue Number:
Parent Issue Date :
Tax Schedule: LE
Expiration Date:
Confirmation #:
Patent Term Adjustment: 0
Agent:
Agent Reference #:

Status Changed Date: 06-Oct-2000

Client Reference #1: Aribindi, S.P.
Client Reference #2: 1-2-3
Client Reference #3: Indian Hill
Client Status:

Priority Date: 9/15/2000

Internal Status: